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Twin Springs Ranch
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Office of National Transportation
Office of Civilian Radioactive Waste Management
US Department of Energy
1551 Hillshire Drive, M/S 011
Las Vegas, NV 89134

Attention Robin Sweeney:

The following letter has two purposes. The first is to submit comments relating to the "US Department of Energy Impact Statement for the Alignment, Construction, and Operation of a Rail Line to a Geographical Repository at Yucca Mountain". The second is to request answers to questions, new and previously asked, that we feel need to be answered or that we feel were previously answered in an insufficient manner.

The history of the Twin Springs Ranch is laid out in attachment 1 of this letter and should be reviewed prior to reading this letter.

The first comment is related to the selection of the Caliente Corridor as the preferred rail route. In all of the research done by us we have found no clear explanation as to why this was the chosen route. According to the information given by the Office of Civilian Radioactive Waste Management as well as the Federal Register, the Caliente Corridor has the most expensive life cost, has the largest land ownership impact, has the longest travel time, has the longest construction time, bisects Indian reservations, archeological sites, and wilderness study areas, and is one of the longest rail routes of all that were considered. In addition, the Federal Register states that "The environmental impacts identified in the Final EIS do not provide a clear basis for discriminating among alternative rail corridors in Nevada" but later states that "impacts tend to increase with corridor length". With the information given above and without better explanation of the decision making process it appears that not only is the Caliente Corridor an undesirable choice but also the most illogical choice out of those given in the EIS.

The questions related to this comment are as follows:

1. What criteria, in detail, made the Caliente Corridor the Corridor of choice?
2. Specifically, why was the Valley Modified corridor not chosen?

The second comment is relating to the scenarios that were chosen for evaluation in the EIS. The EIS never considered a scenario in which the nuclear waste would be hauled by existing rail line to Caliente and transferred to legal haul trucks and transported the

remainder of the way on existing highways. In this scenario there would be no land conflict, less than 5 hours travel time, no wilderness study areas would be effected, the impacted population would be similar to a rail route, there would be no construction time, and according to mathematical calculations shown in attachment 2, DOE would have to incur a cost in excess of \$16,000 per load in order to equal the \$880, 000, 000 life cycle cost of the Caliente Corridor. The capability for such a scenario does exist and is actually laid out in the EIS as an alternative transportation method during construction of a rail line. This scenario would also provide business to the local communities in the form of fuel sale and other trucking related sales.

The EIS also does not include a scenario in which the nuclear waste would be hauled through Hawthorn on a rail line. A rail line already exists as far as Hawthorn and a previously constructed rail "bed" already exists on the majority of the remaining travel path. Because the rail bed does already exist, the terrain is conducive for a rail line, and the corridor length would be minimal, it seems like this should have been and should still be considered scenario.

The questions related to this comment are as follows:

1. Why was a rail to legal haul truck scenario never considered?
2. Why was a Hawthorne rail route never considered?

The third comment is related to the Payment Equal To Taxes (PETT) allocated to Nye county by the Department of Energy. Even though the description of PETT funds given in Cite AS: 56 FR 42314 make the allocation of over \$70 million to the county of Nye appeared to be a legitimate transaction; we see it as a fleecing of tax payer dollars to pay off Nye county officials. The basis for this belief comes in part from the fact that the \$70 million are distributed throughout the county to fund projects that in no way relate to nuclear transportation or storage. For example, \$400,000 of the PETT money given to Nye county is being used to construct an all weather track at the Pahrump Valley High School. In conjunction, this money appears to have caused the county commissioners, as well as other county officials, to turn their backs on their responsibilities to represent ALL citizens of Nye county. These actions and observations have leaded us to believe that the PETT fund is a payoff or bribe as opposed to a legitimate funding program.

The questions related to this comment are as follows:

1. The PETT fund is specifically related to nuclear waste policy; so why are the funds being distributed in a manner that does not regulate them to be spent on nuclear waste projects?

The fourth comment is related the meetings held without public access relating to the railroad line from Caliente to Yucca Mountain. According to the state open meeting laws, this sort of activity is illegal and can only result in the diminished credibility of those involved and bring into question the legitimacy of the decision making process is. In addition to these meeting being closed to the public, no minutes were not publicly

posted. Again, this leads us to believe that illicit activities were taking place during these closed meetings. These activities are certainly not in compliance with NEPA procedure.

The questions related to this comment are as follows:

1. What was the purpose and what occurred during these meetings?
2. Where any "closed" meetings held with individuals; and if so with whom and what was discussed?
3. Does the Department of Energy feel that they can disregard the Nevada state open meeting laws; and if so why?
4. Was the discussion of money distributed to Nye county or any other counties or persons by DOE brought up at any time during these closed meetings.

The fifth comment is related to the Constitutional issues relating to Caliente corridor rail route. Article I, Section 8, paragraph 17 of the constitution of the United States requires that the federal government go before the State legislature before obtaining land. To the best of our knowledge DOE has not complied with this requirement.

The questions related to this comment are as follows:

1. Did DOE go before the Nevada State Legislature as required by the Constitution of the United States?

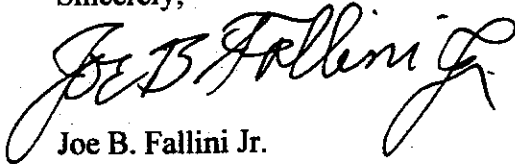
The sixth comment is related to reprocessing of spent nuclear material. Currently Japan, France, and Great Brittan are reprocessing their spent nuclear material. This leaves us to wonder with all of the technology in the United States why we are not doing the same. This process seems to be both economical and productive.

The seventh comment is related to the issue of "public land". As established by Bardon v. Northern Pac. R. Co. 12S.Ct. 856, 145 230 F 591, 593. it is well settled that all land to which any claim or rights of others have attached does not fall within the designation of public lands. The Twin Springs Ranch owns an allotment, multiple water rights, and multiple right of ways within the area where the proposed public land withdrawal for the Caliente corridor traverses. Therefore the described land should not be considered "public land" which would make the proposed land withdrawal unlawful.

In addition to the comment stated above we again want to state on the record that the Twin Springs Ranch was never directly contacted or informed of the proposed land withdrawal for the Caliente corridor by either DOE or BLM. It was not until after we read in the newspaper about the land withdrawal did correspondence begin. We also want to again state on the record that the Twin Springs Ranch is now concerned that the BLM is using the Nevada public land withdrawal to obtain water rights on grazing allotments. In relation to this we pose the question: Who will hold the water right to the proposed sixty four water wells along the Caliente corridor after development?

At this time we would also like to request a meeting one on one with those involved in the next EIS relating to the transportation of spent nuclear material through the state of Nevada. We feel that this meeting would provide us an opportunity to better present the issues described above as well as other related issues the Twin Springs Ranch has.

Sincerely,



Joe B. Fallini Jr.

cc: Mr. Robert R. Loux
Mr. Bob Abby
Las Vegas Review Journal
Senator John Ensign
Rep. Jim Gibbons
Tonopah Times Bonanza
National Republican Congressional Committee
Honorable G. A. Norton
Director Joshua B. Bolten (OMB)

Attachment 1

The Twin Springs Ranch is located 60 mile east of Tonopah, NV. It consists of water developments, land holdings, grazing rights, and a large number of purchases throughout the years. The Twin Springs Ranch, known as the Reveille Allotment, contains 663,000 acres. This includes the Southern part of hot creek Valley, The Southern tip of the Pancake Range, all Reveille Valley, the Southern portion of Railroad Valley, the Bellehelen area which is located in a small eastern portion of the Stone Cabin Valley, and the headquarters of the Twin Springs Ranch which is located in Nye County Nevada 60 miles east of Tonopah at Twin Springs. The Twin Springs Ranch commenced with the land, water, and grazing ownerships interests of G. B. Fallini in the 1860's, before the existence of the Bureau of Land Management.

The Twin Springs Ranch was acquired as follows: 1. G. B. Fallini and Sons (R. A. Fallini, E. W. Fallini, J. B. Fallini Sr.) purchased part of the Five Mile and Eden Creek Ranch rights on October 17, 1928, from Elizabeth Barndt. 2. On April 15, 1930, G. B. Fallini and Sons purchased the Bellehelen Ranch from Minnie Peterson. 3. On October 10, 1933, the Fallini Brothers (R. A. Fallini, E. W. Fallini, J. B. Fallini Sr.) purchased the Reveille Mill range and water rights. 4. On March 31, 1937, the Twin Springs Ranch purchased the Herman Reischki water and land holdings in what is now the Reveille Allotment. 5. On April 17, 1937, the Twin Springs Ranch purchases the Alvenea Reischki water and land holdings in what is now the Reveille Allotment. 6. On December 20, 1937, the Twin Springs Ranch purchased the Black Springs and its range rights, and the what is now the Fallini Well area range rights from the United Cattle and Packing Company. 7. On December 20, 1937, the Twin Springs Ranch purchased the Echo Canyon and Twin Springs holdings with their respective range and water rights from the United Cattle and Packing Company. 8. On August 12, 1938, the Twin Springs Ranch purchased the remaining Cedar Springs and Sumner Springs, with the respective range and water rights from the United Cattle and Packing Company. 9. On November 29, 1939, the Twin Springs Ranch purchased the Fred's Well and Pyramid Spring, with the respective range and water rights fro the United Cattle and Packing Company. 10. On August 24, 1942, the Twin Springs Ranch purchased the East Side well and Ed's well, with the respective water and range rights from the United Cattle and Packing Company. 11. On September 1, 1943, the Twin Springs Ranch purchased the Buck's Water and Ned's Cache water developments with the respective range and water rights from the United Cattle and Packing Company. 12. On September 21, 1943, the Fallini Brothers purchased Ethel Argoni's (Original G. B. Fallini) 1/6 interest in what is now the Reveille Allotment. 13. On August 7, 1947, Joe B. Fallini Sr., and R. A. Fallini purchased the Warm Springs with the respective range and water rights form Johnson & Johnson. 14. On August 14, 1947, Joe B. Fallini Sr., E. W. Fallini, and R. A. Fallini purchased the Consteant Venner's 1/4 interest in what is now the Reveille Allotment. 15. On July 7, 1954, Joe B. Fallini Sr. purchased Walter Sinclair Hyde's range and water rights in the Hyde's Estate on what is now the Reveille Allotment. 16. On November 2, 1964, Joe B. Fallini Sr. purchased, from Elma Hartland and her son, John Carter, their portion of a 1/6 interest in the Reveille Allotment for \$35,000. 17. On November 2, 1964, Joe B. Fallini

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Sr. purchased 1/2 of the Warm Springs water and range rights from Elma Hartland for \$50,000, giving Joe B. Fallini Sr. complete ownership of Warm Springs including its range and water rights. 18. On November 23, 1964, Joe B. Fallini Sr. purchased Marie Hollingsworth's (original G. B. Fallini) 1/6 interest in the Reveille Allotment. 19. On June 14, 1964, Joe B. Fallini Sr. completed a homestead in the Warm Springs area. 20. On October 25, 1968, Joe B. Fallini Sr., and Helen Fallini purchased the range and water rights of Virginia Fallini-McCuin, Eleanor Fallini-Titus, and Mildred Fallini in the Reveille Allotment for \$240,000. 21. On November 25, 1969, Joe B. Fallini Sr. and Helen Fallini purchased Mildred Fallini-Lorigan's (original G. B. Fallini) 1/6 interest in the Reveille Allotment.

On June 5, 1979, Joe B. Fallini Sr. died. The ranch appraisal for his portion of the estate was valued at \$1,155,000. \$90,400 was the Twin Springs Ranch component, \$550,000 was the Range Improvement component, and \$514,600 was the BLM grazing privileges component. The taxes and interest on Joe B. Fallini Sr.'s estate cost the Twin Springs Ranch \$437,019.81. This did not include the cost of appraisal, attorney fees, and accountant fees which totaled approximately \$150,000.

On April 29, 1989, Helen Fallini died. The Ranch appraisal for her portion of the estate was valued at \$1,500,000. \$149,000 was the Twin Springs Ranch component, and \$169,000 was the range improvement component; \$1,182,000 was the BLM grazing privilege component. The taxes and interest on Helen Fallini's estate cost the Twin Springs Ranch \$270,168.80. This again did not include the cost of appraisal, attorney fees, and account fees which totaled approximately \$100,000.

On March 17, 1992, the IRS requested collateral in form of a bond or loan to allow the estate to continue with the IRC 6166 election to pay the estate tax in installment payments. It took the Twin Springs Ranch 14 years to pay the estate tax, interest, and related costs described above. This clearly shows that the Federal Government recognizes a value on water improvements and grazing rights, dispelling the common belief by the BLM and the DOE that we do not have ownership rights on the Twin Springs Ranch.

When the Reveille "Allotment" was created in the 1950s, it was created under a water base allotment. This meant the Twin Springs Ranch must own and control all of the water rights for commensability. This is in contrast to the more common land based allotment.

On May 19, 1976, the BLM attempted to retire 25,730 AUM's on the Reveille Allotment for a proposed wild horse range. If this proposal had been successful the BLM would have acquired all private lands and waters on the Reveille allotment with the exception of the business site lands in the Warm Springs area, patented mining claims, and the DLEs.

In the late 1980's the BLM informed the Twin Springs Ranch that if the Twin Springs Ranch would produce a map labeling all of the ranch water developments, the water developments would be recognized as private waters belonging to the Twin Springs

Ranch. The Twin Springs Ranch developed the map at a cost of over \$60,000. After submitting the map to the BLM, the Twin Springs Ranch repeatedly inquired why the BLM had not recognized these waters as belonging to the Twin Springs Ranch. No response was made to these inquiries. On September 15, 1993, the Twin Springs Ranch received notification from the State Water Engineer's office informing the Twin Springs Ranch that the BLM had filed 111 (PWR 107) water applications (R 06050 - R 06161). In 1991 additional filings were recorded as had happened in 1979. The Twin Springs Ranch later found out that the BLM applications had been made using the very map that the Twin Springs Ranch had created for the BLM with the promise that the BLM would recognize the waters as privately owned by the Twin Springs Ranch.

Fallini et al. vs. Hodel et al. 783 F2 1342 (9th Cir.1986); Fallini et al. vs. Hodel et al., R-85-535BRT, USDC, NV, Finding #43, Nov. 28, 1986, established that the Twin Springs Ranch owns, and the BLM is collaterally estopped to deny that the Twin Springs Ranch owns water rights to all known waters within the Reville Allotment.

After plotting the withdrawal for the rail route on the Twin Springs Ranch, we found that it encompasses 130 sections, approximately 78,080 acres on the Reville Allotment, as well as many of our privately owned water establishments. Following is a list of those water establishments accompanied by the development cost of each: Ned's Cache Pipeline (\$62,332.00), Queen City Reservoir Tank & Trough (\$6,100.00), Cedar Pipeline Extension (\$9,615.18), Cedar Pipeline (\$27,911.27), Sumner Springs (\$41,604.40), Willow Witch Well (\$21,241.99), Volcano Pond, George's Water to Witch Well Pipeline (\$22,019.21), George's Water Pipeline (\$48,056.94), Five Mile Spring and Pipeline (\$13,799.51), Reville Mill Extension Pipeline (\$12,097.44), Charlie's Well Pipeline (\$31,315.35), Black Springs (\$22,039.00). The totals of all the costs listed above were incurred 100% by the Twin Springs Ranch. Not one penny of it was paid by the government.

Attachment 2

According to FR Doc 04-7949 it would require 53,000 legal haul trucks to transfer the spent nuclear material to Yucca Mountain. If the casks were transferred from rail line to legal haul trucks in Caliente the truck haul would be approximately 340 miles if traveling through Tonopah or approximately 180 miles if traveling through Las Vegas. The initial estimate for the life-cost of the Caliente rail route was \$880 million according to FR Doc 04-7949. It should be noted, however, that this estimate was later calculated to be low. By dividing the above 53,000 loads into the \$880 million rail cost you will find that it would have to cost an excess of \$16,000 per haul to equal the cost of the Caliente Rail Line.